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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,896	03/02/2007	Gualtierio Barezzani	J1036.0020/P020	4109
24998	7590	12/18/2008		
DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			EXAMINER SMITH, JASON C	
			ART UNIT 3617	PAPER NUMBER
			MAIL DATE 12/18/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,896	Applicant(s) BAREZZANI ET AL.	
	Examiner Jason C. Smith	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>08/10/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 08/10/2006 is being considered by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 2, 4, 5, 8-14, and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Weber (5,586,502).** Weber discloses a device (10) for the application and/or for the removal of elements for the connection of a rail to a railway track sleeper, comprising: - at least one lever (78) mounted on a frame so as to be able to rotate around an axis of rotation and equipped with at least one pressure organ (79) adapted to engaging the connecting element; - at least one cylinder-piston group (82, 94) adapted to driving the lever (78) in order to assemble or disassemble the connecting element, said cylinder-piston group comprising a cylinder body (94) and a piston (82) slidably housed within the cylinder body and movable with respect to the cylinder body under the action of pressurized fluid, - at least a first (83) and a second stop surface cooperating in such a way as to form a stop device for stopping the lever (78) in a

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defined position with respect to the frame, characterized in that said stop surfaces are formed, one of them on the piston and the other one on the cylinder body of said cylinder-piston group (claim 5 and 7); [claim 2] wherein said stop device comprises adjusting means (83) which allow the adjustment of the position of at least one of said first and second stop surfaces (See Fig. 5);

4. **Regarding claims 4, 5, 8-14, and 19-23**, the claims do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of being novel. The additional features of these claims are known from Weber.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 3, 6, 7, 15-18, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (5,586,502).** Weber discloses a cylinder-piston group (82, 94) for a device (10) for the application and/or for the removal of elements for the connection of a rail to a railway track sleeper, said group comprising: - a cylinder body (94) and a sliding piston (82) housed within the cylinder body and moveable with respect to the cylinder body under the action of pressurized fluid, - at least one first (83) and second stop surfaces cooperating in such a way as to form a stop device for

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stopping the piston in a defined position with respect to the cylinder body, wherein said stop surfaces are formed, the one on the piston and the other on the cylinder body, characterized by comprising at least one adjusting ring nut (83) for the fine adjustment of the position of at least one stop surface. Weber does not disclose a ring nut for the fine adjustment of the position of at least one stop surface, but he does disclose a nut for a vertically adjustable guide rod. It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have a ring nut, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. The motivation for doing so would have been for finer adjustment in another direction.

7. **Regarding claims 3, 6, 7, 15-18, 24, and 25**, the claims do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of being novel. The additional features of these claims are either known from Weber or they involve slight constructional changes in the device of claim 1 and 24, which come within the scope of the customary practice followed by person skilled in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason C. Smith whose telephone number is (571) 270-5225. The examiner can normally be reached on M- F, 7:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason C Smith/
Examiner, Art Unit 3617

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617